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December 28, 2022

**VIA ECF**

Hon. Robert E. Littlefield, Jr.  
United States Bankruptcy Court, Northern District of New York  
James T. Foley United States Courthouse  
445 Broadway  
Albany, New York 12207

Re: *In Re Good Samaritan Lutheran Church Health Care Center, Inc.*; Case No. 19-12215

Dear Judge Littlefield:

We represent Delmar SNF Operations Associates LLC (“Delmar Operations”), which is the receiver and applicant to be licensed operator of the nursing home owned by the Debtor. The facility is now known as Delmar Center for Rehabilitation and Nursing (“Delmar Center”). I write to provide the Court with a status update concerning Delmar Operations’ Certificate of Need (“CON”) application for change of ownership of the facility.

At the December 14, 2022 hearing, the Department of Health (“DOH”) indicated that it would need to receive all submissions that are part of consideration of the CON application by January 3, 2023 in order for the application to potentially receive consideration at the January-February meetings of the Public Health and Health Planning Council (“PHHPC”). To our knowledge, there are two types of submissions which are or may be required. Each is discussed below.

First, DOH may require revisions to some elements of the financial component(s) of the CON application to bring them up to date from the previous version reviewed by DOH staff. My firm prepares and submits those documents. We have not received any such requests to date. However, by December 30, we will submit updated signature pages which are typically requested in the normal course of the final review before placing a project on the PHHPC agenda.

The second submission does not come from Delmar Operations. Public Health Law § 2801-a (2-b) (b) requires that the State Long-Term Care Ombudsperson (“LTCOP”) submit a recommendation to PHHPC. At this time, we are not aware of whether LTCOP has submitted a recommendation.

Our communications with LTCOP are focused on addressing complaints and concerns raised by the regional ombudsperson concerning resident quality of life at Delmar Center. To be clear, our efforts to address these concerns are no different from those that would take place if there was no Chapter 11 proceeding, or CON application. Delmar Center and its administrator take all concerns raised by LTCOP seriously, whenever they are submitted.

LTCOP has identified three general areas of concern at Delmar Center. The first is food temperature. The facility has conducted an audit and, following this audit, repaired or replaced equipment that was not functioning at optimal levels. The facility also revised food delivery processes and procedures to expedite delivery to residents.

The second area of concern was related to meal contents. The facility has acquired additional condiment supplies and is monitoring supply levels to ensure they remain adequate. The facility is auditing meal tickets and trays to ensure resident requests are reflected consistently.

The third general area of concern relates to call bell response times. The facility has audited call bell responses, including of specific residents identified by LTCOP. The facility initiated improvements to address issues revealed during the audit.

We believe that these steps have addressed the concerns of the LTCOP. The facility administrator has been in communication with regional LTCOP personnel regarding these matters, most recently on December 27. We believe that the communication between the current administrator and ombudsperson has been constructive. No additional concerns have been brought to our attention.

As discussed during the December 14 hearing, in addition to the concerns raised regarding Delmar Center, the LTCOP has expressed concerns regarding a Central New York facility operated by an entity in which one of the members of Delmar Operations holds a 5% membership interest. Centers Health Care's Upstate New York Division President has weekly meetings, either in person or over the telephone, with regional LTCOP personnel for the Central New York facility. A consultant from Centers Health Care is now working full-time in the facility to improve meal service, which was the LTCOP's primary area of concern. Centers Health Care anticipates that having a dedicated consultant on-site at the facility will allow the facility to address the concerns raised by LTCOP and ensure that all improvements will be maintained.

We provide periodic updates to the LTCOP, and her counsel, regarding both facilities. Our next call is scheduled for January 6, 2022.

In sum, Delmar Operations is working expeditiously to complete all submissions required of it to ensure the CON application may be placed on the next PHHPC meeting calendar. We respectfully defer to DOH concerning submissions by LTCOP, and the potential of the CON application to be placed on the January/February PHHPC calendar.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "David B. Morgen", with a long horizontal flourish extending to the right.

David B. Morgen

cc: Counsel of Record (via ECF)